

AMENDED IN ASSEMBLY JUNE 1, 1999
AMENDED IN ASSEMBLY MAY 24, 1999
AMENDED IN ASSEMBLY APRIL 14, 1999
AMENDED IN ASSEMBLY APRIL 5, 1999
AMENDED IN ASSEMBLY APRIL 5, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1497

Introduced by Assembly Members Floyd and Oller
(Coauthors: Assembly Members Ashburn, Bock, Briggs, Cox,
Dickerson, Kuehl, Longville, Maldonado, Mazzoni, and
Robert Pacheco)

(Coauthor: Senator Burton)

February 26, 1999

An act to add Section 12156 to the Public Contract Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1497, as amended, Floyd. Solid waste: purchase of recyclable products.

The existing State Assistance for Recycling Markets Act of 1989 requires the Legislature and all state agencies to meet certain goals for the procurement or purchase of recycled products, as defined, by specified dates.

This bill would prohibit a state agency from purchasing any tangible product ~~that is prohibited from being recycled or remanufactured, as defined, because of conditions or~~

~~incentives imposed by for which the manufacturer, wholesaler, distributor, retailer, or other remanufacturer places restrictions, as specified, on the recycling or remanufacturing of that product by any other person, except as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12156 is added to the Public
2 Contract Code, to read:

3 ~~12156. (a) No state agency shall purchase any~~
4 ~~tangible product that is prohibited from being recycled~~
5 ~~or remanufactured because of conditions or incentives~~
6 ~~imposed by the manufacturer, wholesaler, retailer, or~~
7 ~~other remanufacturer.~~

8 ~~(b) Each state agency shall print a statement on the~~
9 ~~cover of its bid packages, or in some other noticeable~~
10 ~~place in the bid packet, notifying all bidders that it is~~
11 ~~unlawful to prohibit a tangible product from being~~
12 ~~recycled or remanufactured because of conditions or~~
13 ~~incentives imposed by the manufacturer, wholesaler,~~
14 ~~retailer, or other remanufacturer.~~

15 ~~(c) The board shall compile a list of state agencies that~~
16 ~~have purchased tangible products prohibited from being~~
17 ~~recycled or remanufactured because of conditions or~~
18 ~~incentives imposed by the manufacturer, wholesaler,~~
19 ~~retailer, or other remanufacturer during that previous~~
20 ~~fiscal year. Notwithstanding Section 7550.5 of the~~
21 ~~Government Code, the board shall submit the list to the~~
22 ~~Legislative Analyst and to the chairs of the budget~~
23 ~~committees of the Assembly and the Senate on or before~~
24 ~~December 31 of each year.~~

25 ~~(d) Notwithstanding any other provision of law, any~~
26 ~~person who sells a tangible product that is prohibited~~
27 ~~from being recycled or remanufactured because of~~
28 ~~conditions or incentives imposed by the manufacturer,~~
29 ~~wholesaler, retailer, or other remanufacturer is ineligible~~
30 ~~to bid on any state or local government contract for the~~

~~tangible product for a period of three years from the date of that infraction.~~

12156. (a) Except as provided in subdivision (b), no state agency shall purchase any tangible product for which the manufacturer, wholesaler, distributor, retailer, or remanufacturer places restrictions on the recycling or remanufacturing of that product by any other person. For purposes of this section, these restrictions include, but are not limited to, all of the following:

(1) Reducing the price of the product in exchange for any agreement not to remanufacture the product.

(2) A licensing agreement on the product that forbids remanufacturing.

(3) Any contract that forbids the remanufacturing or recycling of the product.

(b) Notwithstanding subdivision (a), a manufacturer, wholesaler, distributor, retailer, or remanufacturer who establishes a recycling or remanufacturing program that is available to a majority of its customers may enter into signed agreements with those customers consenting to the return of the used product to the manufacturer, wholesaler, distributor, retailer, or remanufacturer, only for either of the following purposes:

(1) Recycling and remanufacturing, for purposes of making the remanufactured product readily available for purchase.

(2) Recycling.

(c) Each state agency shall print a statement on the cover of its bid packages, or in some other noticeable place in the bid packet, notifying all bidders that it is unlawful to prohibit a tangible product that is sold to the state from being recycled or remanufactured, except as specified in subdivision (b).

(d) This section does not authorize any violation of the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code) or the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code).

(e) As used in this section, the following terms mean:

1 (1) “Recycled” means that a tangible product that
2 would otherwise become solid waste, but which has
3 undergone a process of collecting, sorting, cleansing,
4 treating, or reconstituting, has been returned to the
5 economic mainstream for the manufacture of new
6 products or the remanufacture of used products that
7 meet the quality standards necessary for use in the
8 marketplace.

9 (2) “Remanufactured” ~~or “refurbished”~~ means that a
10 tangible product that has served its intended end use, but,
11 rather than being discarded or disposed of, has instead
12 been restored, renovated, repaired, or recharged without
13 substantial alteration of its form, so that it meets the
14 quality standards necessary for use in the marketplace.

